

## **REMARKS**

Applicant is in receipt of the Office Action mailed January 13, 2005. Reconsideration of the present case is earnestly requested in light of the following remarks.

### **Telephone Interview**

Applicant and the Examiner conducted a telephonic interview on March 23, 2005. In that interview, Applicant and the Examiner discussed Applicant's claim 1 and Meyer (U.S. Patent No. 5,940,296). Applicant agreed to amend claim 1 to clarify that a process specification and a block diagram are distinct and are each specified by distinct user input.

### **Provisional Obviousness-Type Double Patenting Rejections**

Claims (1, 19, 20), (21), (25), and (35) were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over respective claims (1, 3, 8), (16), (20), (21), and (28) of co-pending Application No. 10/100,559. In the event that the conflicting claims are patented, Applicant agrees to file a Terminal Disclaimer to resolve this issue.

### **§102 Rejections**

Claims 1-13, 15, 16, 18-24, and 26-34 were rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (U.S. Patent No. 5,940,296).

Applicant respectfully submits that Meyer nowhere teaches or suggests the features as currently recited in claim 1:

A method for specifying a computer-implemented process, the method comprising:

displaying a graphical user interface comprising a plurality of possible steps that are useable in specifying at least a portion of a process;

receiving first user input selecting a plurality of steps specifying a first portion of the process;

creating a process specification in response to the first user input, wherein the process specification comprises the plurality of steps specifying the first portion of the process;

receiving second user input selecting a plurality of nodes and interconnecting at least two of the plurality of nodes, thereby specifying a plurality of interconnected nodes;

creating a block diagram in response to the second user input, wherein the block diagram specifies a second portion of the process, wherein the second portion of the process is distinct from the first portion of the process, and wherein the block diagram is distinct from the process specification;

wherein the block diagram comprises the plurality of interconnected nodes which visually indicate operation of the second portion of the process;

wherein the process specification and the block diagram collectively specify the computer-implemented process.

Thus, Applicant respectfully submits that claim 1 is patentably distinguished over Meyer.

Applicant respectfully submits that Meyer teaches building a single “graphical, control-flow structure” (Meyer Abstract) or “flow chart” which must obey the rules of the Grafcet programming language rather than two distinct portions, i.e., a process specification and a block diagram, which operate in conjunction to specify a process.

Applicant respectfully notes: anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). Furthermore, the identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Accordingly, Applicant respectfully submits that, at least for the reasons presented, claim 1 and those dependent therefrom are allowable.

Furthermore, Meyer nowhere teaches or suggests, “. . . wherein the block diagram graphically specifies a decision operation based on execution results determined by steps in the process specification. . . *(emphasis added)*” as included in pertinent part by claim 3. Rather, Meyer teaches and discloses output steps (see Meyer’s Figure 4) which do not teach or suggest a block diagram graphically specifying a decision operation based on execution results of each step. Moreover, Meyer could not create a “process specification,” as demonstrated above. Therefore, Meyer could not base something on execution results of each step of a plurality of image processing steps in a process specification.

Thus, Applicant respectfully submits that claim 3 is patentably distinguished over Meyer and is allowable based, at least, on these further reasons.

Applicant respectfully submits that claim 21 includes features similar to claim 1, and so the arguments presented above apply with equal force to claim 21, as well. Thus, Applicant respectfully submits that claim 21 is patentably distinguished over Meyer. Accordingly, Applicant respectfully submits that, at least for the reasons presented, claim 21 and those dependent therefrom are allowable.

Applicant respectfully submits that claim 26 includes features similar to claim 1, and so the arguments presented above apply with equal force to claim 26, as well. Thus, Applicant respectfully submits that claim 26 is patentably distinguished over Meyer. Accordingly, Applicant respectfully submits that, at least for the reasons presented, claim 26 is allowable.

Applicant respectfully submits that claim 27 includes features similar to claim 1, and so the arguments presented above apply with equal force to claim 27, as well. Thus, Applicant respectfully submits that claim 27 is patentably distinguished over Meyer. Accordingly, Applicant respectfully submits that, at least for the reasons presented, claim 27 and those dependent therefrom are allowable.

Applicant respectfully submits that claim 35 includes features similar to claim 1, and so the arguments presented above apply with equal force to claim 35, as well. Thus, Applicant respectfully submits that claim 35 is patentably distinguished over Meyer. Accordingly, Applicant respectfully submits that, at least for the reasons presented, claim 35 is allowable.

Applicant respectfully requests removal of the §102 rejections. Applicant also respectfully submits that the independent claims are nonobvious and are allowable as well based on the arguments above.

### **§103 Rejections**

Claims 14, 17, and 25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Favreau et al. (U.S. Patent No. 6,531,707, hereinafter “Favreau”).

The Office Action cites dependent claims 14 and 17 as being rejected under 35 U.S.C. 103. Independent claim 1 has been amended to overcome rejections under 35 U.S.C. 102. Applicant also respectfully submits that claim 1 is nonobvious and is allowable, as well. Applicant respectfully notes: “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)” as stated in the MPEP §2143.03. Accordingly, Applicant respectfully submits that, at least for these reasons, claims 14 and 17 are also nonobvious and allowable.

Applicant respectfully submits that neither Meyer nor Favreau teach or suggest the features as currently recited in claim 25:

A method for specifying a computer-implemented process, the method comprising:

receiving user input indicating operations to be performed on an object;

storing a plurality of steps in a script in response to the user input, wherein each step is operable to perform an operation;

creating a block diagram in response to user input, wherein the block diagram specifies a decision operation based on execution results of the plurality of steps;

wherein the script and the diagram collectively specify the computer-implemented process.

Thus, Applicant respectfully submits that claim 25 is patentably distinguished over both Meyer and Favreau, taken both singly and in combination.

Examiner's Action asserts "As per claim 25. . .Meyer doesn't explicitly disclose script. However Favreau, in analogous art, teaches script (E.g. see col. 10:10-14, A script can be a software that calls the run routines that executes the steps)" (*emphasis added*). Applicant respectfully disagrees with Examiner's characterization of Favreau and respectfully submits that Favreau is deficient in explicitly or inherently "teaching a script".

Rather, Favreau teaches in col. 10, lines 10-14: "In addition, such processing and functionality can be implemented in the form of a special purpose hardware or in the form of software being run by a general purpose computer or any combination of both."

In the statement "A script can be a software. . .", the Examiner has only suggested a possibility that "a script can be a software". Applicant respectfully notes "Inherency, however, may not be established by probabilities or possibilities." *In re Robertson*, 169, F.3d 743, 745 (Fed. Cir. 1999) (quoting *Continental Can Co. v. Monsanto Co.*, 948 F.2d 1264, 1268, 20 U.S.P.Q.2d 1746, 1749 (Fed.Cir.1991) (quoting *In re Oelrich*, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A.1981))) (*emphasis added*).

Applicant respectfully submits the Examiner's suggestion of a possibility cannot remedy deficiencies in the Favreau reference. "[T]he the Board [or the Examiner] must point to some concrete evidence in the record. . ." *In re Zurko*, 258 F.3d 1379, 1386 (Fed. Cir. 2001) (*emphasis added*). Therefore, neither Meyer nor Favreau teach or suggest the features of claim 25.

Applicant respectfully notes "To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re*

*Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974)” MPEP §2143.03 (*emphasis added*). Thus, Applicant respectfully submits that a *prima facie* case of obviousness has not been established to reject claim 25.

Accordingly, Applicant respectfully submits that, at least for the reasons presented, claim 25 is allowable.

Applicant respectfully requests removal of the §103 rejections.

## CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-52800/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

Respectfully submitted,



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